

# State of Louisiana



APR - 7 2003

James H. Jenkins, Jr.  
Secretary

Department of Wildlife & Fisheries  
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April 1, 2003

M.J. "Mike" Foster, Jr.  
Governor

Water Docket  
Environmental Protection Agency  
Mailcode 4101T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
**Attention: Docket ID No.OW-2002-0050**

Dear Sir:

The Louisiana Department of Wildlife and Fisheries (Department) is providing these comments to the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) in regard to the January 15, 2003 "Advance Notice of Proposed Rulemaking on the Clean Water Act (CWA) Regulatory Definition of Waters of the United States," (ANPRM; FR Doc. 03-960).

Louisiana is the most important waterfowl wintering area in the U.S. and often leads the country in harvest and hunter numbers. Approximately 100,000 hunters harvested 2 million ducks and 130,000 geese in 2001, both near national highs. Over 1.3 million hunter days were expended during this season and hunters spent in excess of \$150 million on goods and services related to waterfowl hunting. Obviously, the waterfowling tradition here is extremely important economically and culturally and therefore any action that may significantly impact this vital resource is of major concern.

The Department is alarmed that a narrow interpretation of the U.S. Supreme Court so-called SWANCC decision would remove CWA protection from the prairie pothole region of the north central U.S. In North and South Dakota, alone, there are about 3 million of these wetlands, and most of these are less than one acre in size. This is the most important waterfowl breeding area in North America producing in excess of 50% of the annual production of ducks during wet years. Most of these wetlands are privately owned and would be quickly converted to other uses should the past jurisdictional protection under the CWA be removed or lessened.

The ANPRM, referenced above, requests input on issues associated with the definition of waters of the United States and solicits information on the implications of the SWANCC decision. The Department is very concerned that an erroneous defining of "isolated, non-navigable, intrastate waters" would include prairie potholes, and these critical wetlands would therefore, no longer be afforded CWA protection. Even though most of these small wetlands in the prairie pothole region are geographically, or spatially isolated, the overwhelming majority are hydrologically connected, and are therefore not functionally isolated. The Department urges the EPA and Corps to consider this hydraulic functionality when defining "isolated waters". The functional and hydraulic relationships between these waters are in many ways more important than the geographic proximity in assessing wetland-water quality linkages. The future of North

America's waterfowl resources is dependent on protection of small, spatially isolated wetlands such as those found in the prairie pothole region.

We respectfully request that the EPA and Corps develop their definition of "isolated waters" to afford maximum protection to all wetlands that are functionally connected wetlands.

Sincerely,

A handwritten signature in dark ink, appearing to read "James H. Jenkins, Jr.", written in a cursive style.

James H. Jenkins, Jr.  
Secretary

cc: Louisiana Congressional Delegation